



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,851	11/04/2003	Hideo Yamagata	017446-0337	5782
22428	7590	09/10/2007		
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER BARQADLE, YASIN M	
			ART UNIT 2153	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/699,851	Applicant(s) YAMAGATA, HIDEO	
	Examiner Yasin M. Barqadle	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2153

Response to Amendment

Applicant's arguments filed on June 11, 2007 have been considered and are deemed persuasive in part (see Response to Arguments below). However, they are moot in view of the new ground(s) of rejection.

Priority

A claim for foreign priority has been made. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. The effective filing date for subject matter in the application is November 08, 2002.

Response to Arguments

In response to Applicant's arguments "Bern uses SMS messages, which are distinct and separate from emails. In fact, the SMS messages of Bern are utilized to notify the user of new emails. Thus, Bern fails to disclose the ability to store instructions pertaining to the contents of the electronic mail in the header of the electronic mail." (Page 8, first paragraph). Applicant's

Art Unit: 2153

attention is directed to the new ground of rejection of Fujii in view of Pollack as shown in the detailed office action.

In page 8 last paragraph of the remarks, it appears the Applicant is challenging the official notice taken by the examiner toward the limitation of "notifying a notification destination associated with an owner of a corresponding cell phone of information associated with backup processing upon completion of backup or restore." Examiner maintains his rejection and provides art teaching the above limitation. Please see Yamao US Patent Number (7200220). Yamao teaches "notifying a notification destination associated with an owner of a corresponding cell phone of information associated with backup processing upon completion of backup or restore." (See abstract and col. 5, lines 25-47 and col. 6, lines 35-52. See also col. 7, lines 21-45). See further more Kobayashi US Patent Number (6664760).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2153

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,5,7, 9-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujii Nobuyuki (Japanese publication number 2001177624, hereinafter "Fujii") in view of Pollack US Publication Number (20020019851).

As per claims 1,5, and 9-11, Fujii teaches a backup system which backs up memory information in a cell phone (terminal 1, fig. 1) to a terminal by transmitting/receiving electronic mail (see data center 3 and compute 5 of fig. 1 and abstract)), wherein said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in an email portions (mail directory is transmitted for backup via email see abstract), and backup means for analyzing the email portion of the received electronic mail, and when detecting that the mail is backup response mail from said cell phone, decoding a text of the received backup response mail and backing up the text, and said cell phone comprises response mail creating means for analyzing the email portion of the received electronic mail,

Art Unit: 2153

creating, as backup response mail, electronic mail having a text in which the memory information in said cell phone is coded and written, when detecting that the mail is backup instruction mail from said terminal, and transmitting the mail to said terminal (Fujii shows the invention of creating, converting phone directory and transmitting for a backup via email and fetching the backed up directory and updating (restoring) in the cell phone (terminal 1) (abstract and fig. 1)).

Although Fujii shows substantial features of the claimed invention including backup operation being performed via email message, however Fujii does not explicitly show backup instructions stored in the header portion of the email.

Nonetheless, storing instructions in the header portion of an email message is well known in the art and would have been an obvious modification of the system disclosed by Fujii to include instructions in the header portion, as evidenced by Pollack USPN. (20020019851).

In analogous art, Pollack whose invention is about a "system for management and manipulation stored of stored files... a user identification system which extracts information from the electronic mail item including the from address, destination address, the subject, the reply-to, and the body of the

Art Unit: 2153

electronic mail item, to enable verification of the sender as a known user of the system, and/or a command parser which recognizes and assembles a command out of the information extracted from the electronic mail.", disclose an email header encoded with command instructions "IG. 5 also shows that email 14 can contain command specification 6 with arbitrary parameters ... The command specification 6 encoded as the destination address 26 of email 14 at the domain address of the system. A fax command requires a phone number locating the desired output fax machine, which in this case is represented in the subject line 27 of email 14. Alternatives, such as encoding the phone number and the command into a single address, such as 8005551212@thinfax.com 28 can be used, as well as placing the command in the body or other headers of the email." (§ 0042). (See also §0043 and commands in the header information of figures 5 and 6). Giving the teaching of Pollack, a person of ordinary skill in the art would have readily recognized the advantage of modifying Fujii by employing the system of Pollack in order to execute the command instruction in the header portion to perform actions desired by a remote user or device. One ordinary skill in the art at the time of the invention would do so to allow a user to quickly and easily manage files on a network storage system from any device (§ 007 § 0012).

Art Unit: 2153

As per claims 3 and 7 and 13, Fujii in view of Pollack teach the invention wherein the header portion of the backup instruction mail contains authentication information for a terminal-side user which is personal identification information obtained as a result of computing specific header information according to a predetermined algorithm, and said cell phone performs personal identification for the user from specific header information and a computation result based on the predetermined algorithm when receiving backup instruction mail (Pollack shows mechanism of the user identification that can be derived from the "from" address of the email as well as other information carried (encrypted string which must be decoded) in the header or body of the message ¶ 0010-0012; ¶ 0038 and ¶ 0066-0067).

Claims 2,6,8,12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujii Nobuyuki (Japanese publication number 2001177624, hereinafter "Fujii") and Pollack et al US Patent Number (20020019851), hereinafter "Pollack" in view of what is well known in the art of message (event) notification.

As per claim 2,6,8,12 and 14, although Fujii and Pollack show substantial features of the claimed invention as explained

Art Unit: 2153

above, they do not explicitly show notifying a notification destination associated with an owner of a corresponding cell phone of information associated with backup processing upon completion of backup.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Fujii and Pollack. A person of ordinary skill in the art at the time of the invention would have readily recognized the desirability and the advantage of modifying Fujii and Pollack to transmit a notification means for notifying a notification destination associated with an owner of a corresponding cell phone of information associated with a backup processing upon completion of backup/restore information. One ordinary skill in the art at the time of the invention would do so in order to notify the owner of backed up data the successful completion of backup or restore operation and that no data has been lost.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujii Nobuyuki (Japanese publication number 2001177624, hereinafter "Fujii") and Pollack et al US Patent Number (20020019851), hereinafter "Pollack" in view of what is well known in the art of data backup and restore operations.

Art Unit: 2153

As per claim 4, Fujii in view of Pollack teach the wherein said terminal includes a backup (instruction), and said instruction mail creating means automatically creates backup instruction mail in accordance with said backup (instruction) and transmits the mail to said cell phone. However, Fujii in view of Pollack do not show a backup schedule table. Backup systems to have back schedule table is well known in the art at the time of the invention was made. One ordinary skill in the art at the time of the invention would have a backup schedule timetable for the advantage of backing up updated files since the last backup. This enables to have a less information to restore since the most recent backup data.

Conclusion

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be

Art Unit: 2153

reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

Art Unit 2153

Yasin Barqadle

Art Unit 2153

A handwritten signature in black ink, appearing to read 'Yasin Barqadle', is written over the typed name and unit number.